

APPEAL NO. 020523
FILED APRIL 18, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on February 14, 2002. The hearing officer determined that the appellant/cross-respondent (claimant) did not sustain a compensable repetitive trauma injury; that the date that the claimant knew or should have known that the claimed injury was work-related was _____; that the respondent/cross-appellant (carrier) is not relieved of liability under Section 409.002 since the claimant timely notified her employer of the claimed injury pursuant to Section 409.001; and that the claimant did not have disability resulting from the claimed injury. The claimant appeals the injury and disability determinations on sufficiency of the evidence grounds. The carrier submitted a conditional request for review of the determinations of the date of injury and that there was timely notice to the employer, on sufficiency of the evidence grounds. The carrier also responded to the claimant's appeal, urging affirmance.

DECISION

Affirmed.

All of the issues in this case presented factual questions for the hearing officer to resolve. Section 410.165(a) provides that the hearing officer, as finder of fact, is the sole judge of the relevance and materiality of the evidence as well as the weight and credibility that is to be given the evidence. It was for the hearing officer, as trier of fact, to resolve the inconsistencies and conflicts in the evidence. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). This is equally true regarding medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). The trier of fact may believe all, part, or none of the testimony of any witness. Aetna Insurance Company v. English, 204 S.W.2d 850 (Tex. Civ. App.-Fort Worth 1947, no writ). We will reverse a factual determination of a hearing officer only if that determination is so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); Pool v. Ford Motor Company, 715 S.W.2d 629, 635 (Tex. 1986). Applying this standard of review to the record of this case, we decline to substitute our opinion of the credibility of the respective witnesses and the evidence for that of the hearing officer.

We affirm the decision and order of the hearing officer.

The true corporate name of the insurance carrier is **COMMERCE & INDUSTRY INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
800 BRAZOS, SUITE 750, COMMODORE 1
AUSTIN, TEXAS 78701.**

Michael B. McShane
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Terri Kay Oliver
Appeals Judge